

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LAWRENCE W.,	:	Case No. 3:24-cv-39
	:	
Petitioner,	:	
	:	
vs.	:	District Judge Thomas M. Rose
	:	Magistrate Judge Chelsey M. Vascura
	:	
COMMISSIONER OF SOCIAL	:	
SECURITY, <i>et al.</i> ,	:	
	:	
Respondents.	:	

**ENTRY AND ORDER ADOPTING REPORT AND RECOMMENDATION
(DOC. NO. 11)**

Presently before the Court is the Report and Recommendation (“Report”) of United States Magistrate Judge Chelsey M. Vascura (Doc. No. 11), to whom this case was originally referred pursuant to 28 U.S.C. § 636(b). The Report recommends the Commissioner of Social Security’s non-disability determination as to Petitioner Lawrence W. (“Petitioner”) be affirmed. (Doc. No. 11 at PageID 802.)

If a party objects within the allotted time to a United States magistrate judge’s report and recommendation, then the Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* The Court “may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.* In Social Security DIB appeals, the Court’s “review is limited to determining whether the Commissioner’s decision is supported by substantial evidence and was made pursuant

to proper legal standards.” *Winn v. Comm’r. of Soc. Sec.*, 615 Fed. App’x. 315, 320 (6th Cir. 2015) (internal quotation marks omitted).

Petitioner filed an objection on July 26, 2024—within the fourteen days provided by Fed. R. Civ. P. 72(b)(2)—arguing Magistrate Judge Vascura erred by “ignoring a more expansive body of case law from several other circuits” in favor of caselaw from the Sixth Circuit. (Doc. No. 12 at PageID 810-11.) However, it is conceded by Petitioner that the cited caselaw from the Sixth Circuit was on point. (*Id.*) In response, the Government argues that Magistrate Judge Vascura is bound by Sixth Circuit precedent and appropriately followed precedent in this case. (Doc. No. 13 at PageID 814.)

Both the Magistrate Judge and District Court Judge are bound by the Sixth Circuit’s precedent. There is no argument that Magistrate Judge Vascura improperly applied the precedent from the Sixth Circuit or that the precedent itself is inconsistent within the circuit. It is not the province of this Court to rewrite the precedent of the entire circuit.

Therefore, the Objections of Petitioner Lawrence W. (Doc. No. 12) are **OVERRULED** and the non-disability determination of the Commissioner of Social Security is **AFFIRMED**. The Clerk is directed to **TERMINATE** this matter on the Court’s docket.

DONE and **ORDERED** in Dayton, Ohio, this Monday, August 5, 2024.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE